**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU**

**WEDNESDAY, THE 11TH JULY 2007 / 20TH ASHADHA 1929**

**Crl.Rev.Pet.No. 4 of 1998()**
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**CRA.283/1995 of PRL. SESSIONS COURT, THALASSERY DT.8.10.97.**
**CC.164/1991 of JUDL.MAGISTRATE OF FIRST CLASS COURT-I, KANNUR.**

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**REVN. PETITIONER: APPELLANT/ ACCUSED**
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**P.RAGHAVAN, S/O.KUNHIRAMAN,**
**NEERVELI AMSOM DESOM,**
**KUTHUPARAMBA.**

**BY ADV. SRI.T.A.SHAJI**

**RESPONDENT: RESPONDENT/ COMPLAINANT**
**----------**

**STATE OF KERALA (S.I.OF POLICE**
**KANNUR TOWN),**
**REP.BY THE PUBLIC PROSECUTOR,**
**HIGH COURT OF KERALA, ERNAKULAM.**

**BY PUBLIC PROSECUTOR SRI.DILIP.S.**

**THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 11/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

**K.R. UDAYABHANU, J.**

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Crl. R.P. No. 4 of 1998

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Dated 11th July, 2007

**ORDER**

Revision petitioner who is the accused in C.C.No.164/91 with respect to the offences under sections 279 and 337 IPC stands convicted and sentenced, as modified by the appellate court , to pay a fine of Rs.2000/- each and in default to undergo simple imprisonment for one month each for the offences under sections 279 and 337 IPC.

2. The prosecution case is that on 21-10-90 at about 7 a.m the accused drove KSRTC Express bus bearing No.KL 15/1 in a rash and negligent manner so as to endanger human life, through the National Highway from east to west and hit on a jeep that came from the opposite direction. Some of the passengers of the jeep sustained injuries.

3. The evidence adduced in the matter consisted of the testimony of PWs 1 to 15; Exts. P1 to P11 and M.O-1 series

glass pieces.

4. It is the contention of the counsel for the revision petitioner that the only evidence on the basis of which the accused has been convicted is Ext.P2 scene mahazar as per which it is noted that the bus was on the wrong side of the road. Both the courts below have relied on the above piece of evidence alone. The evidence of PWs 7 and 8, the passengers of the jeep have testified as to the negligence on the part of the revision petitioner which was disbelieved by the courts below as their versions are contrary to each other. The rest of the witnesses have not testified as to any negligence or rashness on the part of the revision petitioner/accused in driving the vehicle. The reliance placed by the courts below exclusively on the scene mahazar cannot be said to be proper as pointed out by the counsel for the revision petitioner. It is brought out that the incident took place adjacent to a sales tax check post, and lorries were lying on both sides of the road and hence the accused had no other alternative other than to

proceed through the remaining portion of the road. It is quite possible that the accident has occurred on account of the negligence of the driver of the jeep as well who has proceeded ahead despite the fact that the bus was coming from the opposite direction.

5. In the circumstances, I find that the accused/revision petitioner is entitled to benefit of doubt. He is acquitted of the offences. The findings of the courts below are set aside. The accused is acquitted.

The Crl.R P is disposed of accordingly.

K.R.UDAYABHANU,
JUDGE.

Kvm/-

K.R.UDAYABHANU, J.

CRL.R.P.NO.4 OF 1998

ORDER

11-7-2007.